

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

FRANK DAVID MILLER

Petitioner,

v.

Case No. 07-CV-12231

CARMEN PALMER,

Respondent.

**ORDER DENYING PETITIONER' S MOTION
FOR APPOINTMENT OF COUNSEL**

This matter is before the court on Petitioner Frank Miller's motion for appointment of counsel relating to his petition for habeas corpus under 28 U.S.C. § 2254. Petitioner has filed a financial affidavit in support of his request indicating that he is unable to afford counsel.

Petitioner has no absolute right to be represented by counsel on federal habeas corpus review. *See Abdur-Rahman v. Michigan Dept. of Corr.*, 65 F.3d 489, 492 (6th Cir. 1995); *see also Wright v. West*, 505 U.S. 277, 293 (1992) (citing *Pennsylvania v. Finley*, 481 U.S. 551, 555 (1987)). "[A]ppointment of counsel in a civil case is . . . a matter within the discretion of the court. It is a privilege and not a right." *Childs v. Pellegrin*, 822 F.2d 1382, 1384 (6th Cir. 1987) (quoting *United States v. Madden*, 352 F.2d 792, 793 (9th Cir. 1965)). After undertaking a preliminary review of the pleadings, the court concludes that neither an evidentiary hearing nor discovery are necessary at this time, and the interests of justice do not require appointment of counsel. *See* 18 U.S.C. § 3006A(a)(2)(B); 28 U.S.C. foll. § 2254, Rules 6(a) and 8(c). Accordingly,

IT IS ORDERED that Petitioner's "Motion for Request for Indigent Court Appointed Counsel" [Dkt. # 3] is DENIED. The court will bear in mind Petitioner's request if, upon further review of the case, the court determines that appointment of counsel is necessary. Petitioner need not file an additional motion concerning this issue.

s/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: February 14, 2008

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, February 14, 2008, by electronic and/or ordinary mail.

s/Lisa G. Wagner
Case Manager and Deputy Clerk
(313) 234-5522